

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) No. 16 CR 318
) Judge Robert W. Gettleman
JONATHAN SMALLEY,)
)
)
Defendant.)

DEFENDANT'S MOTION TO PRESERVE AGENTS' NOTES AND LOGS

Defendant, **JONATHAN SMALLEY**, by and through his attorney, **PATRICK W. BLEGEN**, respectfully moves this Court for an order directing the government to obtain and preserve for production all rough notes prepared by law enforcement authorities and all investigative agencies and any civilian agents and informants, during the course of the investigation of this case; notes of witness interviews conducted by prosecutors and/or investigating agents; and, notes and logs relating to other investigative activities.

In support of this motion, Defendant, through counsel, states as follows:

1. Notes prepared by an agent or prosecutor are potentially subject to discovery as embodying a defendant's statement, *see* Fed. R. Crim. P. 16, or as constituting the statement of a government witness (including, among others, the person who prepared the notes, if he or she testifies), *see*, 18 U.S.C. § 3500.

2. Because notes are potentially discoverable, they must be preserved by the government. *See, United States v. Harris*, 543 F.2d 1247, 1252 (9th Cir. 1976); *United States v. Harrison*, 524 F.2d 421 (D.C. Cir. 1975); *United States v. Lim*, 2000 WL 782964 (N.D.Ill. 2000); *United States v. Bontkowski*, 49 F.Supp.2d 1075 (N.D.Ill. 1999).

3. In the event that any of the materials requested in this motion have been destroyed, Defendant requests that this Court conduct a hearing and grant appropriate relief.

WHEREFORE, Defendant respectfully requests that this Court grant his motion for preservation of rough notes and logs.

Respectfully submitted,

s/Patrick W. Blegen
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Defendant, Jonathan Smalley.

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